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E-FILED - 02/14/07

5 Attorney for Creditors Margaret B.
 6 McGimsey Trust, Bruce McGimsey,
 Jerry McGimsey, Sharon McGimsey
 7 and Johnny Clark

8 UNITED STATES BANKRUPTCY COURT
 9 DISTRICT OF NEVADA

10 In re:

11 USA COMMERCIAL MORTGAGE COMPANY,)

12 Debtor.)

13 USA CAPITAL REALTY ADVISORS, LLC,)

14 Debtor.)

15 USA CAPITAL DIVERSIFIED TRUST DEED)
 FUND, LLC,)

16 Debtor.)

17 USA CAPITAL FIRST TRUST DEED)
 FUND, LLC,)

18 Debtor.)

19 USA SECURITIES, LLC,)

20 Debtor.)

21 Affects:

- 22 ☐ All Debtors)
 23 ☐ USA Commercial Mortgage Company)
 24 ☐ USA Securities, LLC)
 25 ☐ USA Capital Realty Advisors, LLC)
☒ USA Capital Diversified Trust Deed)
 Fund, LLC)
☐ USA First Trust Deed Fund, LLC)

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
 Case No. BK-S-06-10727 LBR
 Case No. BK-S-06-10728 LBR
 Case No. BK-S-06-10729 LBR

Chapter 11

NOTICE OF APPEAL OF ORDER
 SUSTAINING OMNIBUS
 OBJECTION OF THE OFFICIAL
 COMMITTEE OF EQUITY
 SECURITY HOLDERS OF USA
 CAPITAL DIVERSIFIED TRUST
 DEED FUND, LLC TO CLAIMS
 ON EQUITY MISFILED AGAINST
 USA CAPITAL DIVERSIFIED
 TRUST DEED FUND, LLC AS
CREDITOR CLAIMS

27 TO: OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL
 28 DIVERSIFIED TRUST DEED FUND, LLC;

LAW OFFICES
 WILLIAM L. MCGIMSEY
 A PROFESSIONAL CORPORATION
 601 EAST CHARLESTON BOULEVARD
 LAS VEGAS, NEVADA 89104

1 TO: BECKLEY SINGLETON, CHTD., its attorneys; and

2 TO: ORRICK, HERRINGTON & SUTCLIFFE, LLP, its attorneys.

3 NOTICE IS HEREBY GIVEN that Creditors Margaret B. McGimsey Trust, Bruce
4 McGimsey, Jerry McGimsey, Sharon McGimsey and Johnny Clark hereby appeal to the United
5 States Bankruptcy Appellate Panel of the Ninth Circuit (BAP) from that certain Order Sustaining
6 Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital
7 Diversified Trust Deed Fund, LLC, to Claims on Equity Misfiled against USA Capital Diversified
8 Trust Deed Fund, LLC as Creditor Claims entered in the above matter on February 14, 2007, a true
9 and correct copy is attached hereto as Exhibit A.

10 The parties to the Order appealed from and the names and addresses of their respective
11 counsel are as follows:

12 Debtor USA Capital Diversified Trust Deed Fund, LLC
13 4484 South Pecos Road
14 Las Vegas, NV 89121

15 Attorneys for Debtor Lenard E. Schwartzer, Esq.
16 Jeanette E. McPherson
17 Schwartzer & McPherson Law Firm
18 2850 S. Jones Blvd, Suite 1
19 Las Vegas, NV 89146

20 Annette W. Jarvis, Esq.
21 Stephen Strong, Esq.
22 Ray Quinney & Nebeker, PC
23 36 So. State St., Suite 1400
24 PO Box 45385
25 Salt Lake City, UT 84145

26 Creditors/Appellants: Margaret B. McGimsey Trust
27 Bruce McGimsey
28 Jerry McGimsey and Sharon McGimsey
Johnny Clark

Attorney for William L. McGimsey, Esq.
Creditors/Appellants 601 East Charleston Blvd.
Las Vegas, NV 89104

Appellee: Official Committee of Equity Security Holders of USA Capital
Diversified Trust Deed Fund, LLC

27 ///

28 ///

1 Attorneys for Appellee: Bob I. Olson, Esq.
2 Anne M. Loraditch, Esq.
3 Beckley Singleton, Chtd.
530 Las Vegas Blvd. South
Las Vegas, NV 89101

4 Marc A. Levinson, Esq.
5 Jeffery Hermann, Esq.
6 Orrick, Herrington & Sutcliffe, LLP
400 Capitol Mall, Suite 3000
Sacramento, CA 95814

7 DATED this 14 day of February, 2007.

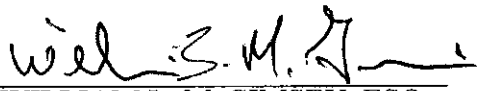
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9 
10 WILLIAM L. MCGIMSEY, ESQ.
601 East Charleston Blvd.
Las Vegas, NV 89104
11 Attorney for Creditors Margaret B.
12 McGimsey Trust, Bruce McGimsey,
Jerry McGimsey, Sharon McGimsey
13 and Johnny Clark
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EXHIBIT A



Entered on Docket
February 14, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

Marc A. Levinson (California Bar No. 57613)
Jeffery Hermann (California Bar No. 90445)
ORRICK, HERRINGTON & SUTCLIFFE LLP
400 Capitol Mall, Suite 3000
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Anne M. Loraditch (Nevada Bar No. 8164)
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aloraditch@beckleylaw.com

*Attorneys for the Official Committee of Equity Security Holders
of USA Capital Diversified Trust Deed Fund, LLC*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
Debtor.

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

In re:
USA SECURITIES, LLC,
Debtor.

Case No. BK-S-06-10725 LBR
Case No. BK-S-06-10726 LBR
Case No. BK-S-06-10727 LBR
Case No. BK-S-06-10728 LBR
Case No. BK-S-06-10729 LBR

Chapter 11

Jointly Administered Under
Case No. BK-S-06-10725-LBR

**ORDER SUSTAINING OMNIBUS
OBJECTION OF THE OFFICIAL
COMMITTEE OF EQUITY
SECURITY HOLDERS OF USA
CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC, TO CLAIMS ON
EQUITY MISFILED AGAINST USA
CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC AS CREDITOR
CLAIMS**

Affects:

- ☐ All Debtors
☐ USA Commercial Mortgage Company
☐ USA Securities, LLC
☐ USA Capital Realty Advisors, LLC
☒ USA Capital Diversified Trust Deed Fund, LLC
☐ USA First Trust Deed Fund, LLC

Date: January 31, 2007

Time: 9:30 a.m.

Courtroom: 1

The Court having considered the Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC to Claims on Equity Misfiled As Proofs of Claim (the "Objection"), all subsequent related pleadings, the papers and records on file in the above-captioned bankruptcy cases, and the arguments of counsel at the hearing noted above, Anne M. Loraditch, Esq., appearing for the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC, with other appearances as noted on the record; sufficient notice having been given; the Court having made its findings of fact and conclusions of law on the record, incorporated herein pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure; and for good cause appearing:

IT IS HEREBY ORDERED that the Objection is sustained.

IT IS FURTHER ORDERED that the claims listed on Exhibit A, attached hereto and made a part hereof, shall be disallowed in their entirety, as they are creditor claims filed by holders of equity interests in USA Capital Diversified Trust Deed Fund, LLC ("Diversified Fund") who are not entitled to any distribution from Diversified Fund on the basis of such claims but who shall recover from Diversified Fund on a pro rata basis according to their respective equity interests.

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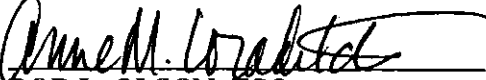
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1 RESPECTFULLY SUBMITTED BY:

2 BECKLEY SINGLETON, CHTD.

3 

4 BOB L. OLSON, ESQ.

Nevada Bar No. 3783

5 ANNE M. LORADITCH, ESQ.

Nevada Bar No. 8164

6 530 Las Vegas Boulevard South

7 Las Vegas, Nevada 89101

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8 and

MARC A. LEVINSON, ESQ.

9 California Bar No. 57613

10 JEFFERY HERMANN, ESQ.

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400 Capitol Mall, Suite 3000

12 Sacramento, California 95814-4497

Telephone: (916) 447-9200

13 *Attorneys for the Official Committee of Equity Security*

14 *Holders of USA Capital Diversified Trust Deed Fund, LLC*

15
16 **APPROVED**/DISAPPROVED:

17 RAY QUINNEY & NEBEKER, P.C.

18 /s/ Steven R. Strong

19 ANNETTE W. JARVIS, ESQ.

20 STEVEN R. STRONG, ESQ.

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21 P.O. Box 45385

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22 Telephone: (801) 532-1500

and

23 SCHWARTZER & MCPHERSON LAW FIRM

24 LENARD SCHWARTZER, ESQ.

JEANETTE MCPHERSON, ESQ.

25 2850 South Jones Blvd, #1

Las Vegas, Nevada 89146

26 Telephone: (702) 228-7590

27 *Counsel for USA Capital Diversified*

28 *Trust Deed Fund, LLC*

APPROVED/DISAPPROVED:

SHEA & CARLYON, LTD.

/s/ Candace C. Carlyon

JAMES PATRICK SHEA, ESQ.

CANDACE C. CARLYON, ESQ.

228 South Fourth Street, 1st Floor

Las Vegas, Nevada 89101

Telephone: (702) 471-7432

and

STUTMAN, TREISTER & GLATT, P.C.

FRANK A. MEROLA, ESQ.

EVE H. KARASIK, ESQ.

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Los Angeles, California 90067

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*Counsel for the Official Committee of Equity
Security Holders of USA Capital First Trust
Deed Fund, LLC*

APPROVED/DISAPPROVED:

LEWIS & ROCA, LLP

/s/ Susan Freeman

ROB CHARLES, ESQ.

SUSAN FREEMAN, ESQ.

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*Counsel for the Official Committee of Unsecured
Creditors of USA Commercial Mortgage*

APPROVED/DISAPPROVED:

GOOLD PATTERSON ALES & DAY

/s/ Kelly J. Brinkman

KELLY J. BRINKMAN, ESQ.

4496 South Pecos Road

Las Vegas, Nevada 89121

Telephone: (702) 436-2600

Counsel for Karen Petersen Tyndall

APPROVED/DISAPPROVED:

LAW OFFICE OF WM. L. MCGIMSEY, P.C.

WILLIAM L. MCGIMSEY, ESQ.

601 East Charleston Boulevard

Las Vegas, Nevada 89104

Telephone: (702) 382-9948

*Counsel for Margaret B. McGimsey, Sharon and
Jerry McGimsey, Johnny Clark and Bruce
McGimsey*

APPROVED/DISAPPROVED:

GORDON & SILVER, LTD.

/s/ Greg E. Garman

GERALD M. GORDON, ESQ.

GREGORY E. GARMAN, ESQ.

3960 Howard Hughes Parkway, 9th Floor

Las Vegas, Nevada 89109

Telephone: (702) 796-5555

*Counsel for the Official Committee of Holders
of Executory Contract Rights of USA
Commercial Mortgage*

APPROVED/DISAPPROVED:

SHRECK BRIGNONE

/s/ James D. Greene

JAMES D. GREENE, ESQ.

300 South Fourth Street, #1200

Las Vegas, Nevada 89101

Telephone: (702) 382-2101

Counsel for John Godfrey

APPROVED/DISAPPROVED:

OFFICE OF THE UNITED STATES
TRUSTEE

/s/ August Landis

300 Las Vegas Boulevard, Suite 4300

Las Vegas, Nevada 89101

1 ALTERNATIVE METHOD re: RULE 9021:

2 In accordance with Local Rule 9021, the undersigned certifies:

3 ☐ The Court waived the requirements of LR 9021.
4 ☒ I have delivered a copy of this proposed order to all attorneys and unrepresented parties
5 who appeared at the hearing regarding this matter and/or who filed a written objection and each
6 has:

- 7 ☒ approved the form of this order;
8 ☐ waived the right to review the order; and/or
9 ☒ failed to file and serve papers in accordance with LR 9021(c); and

10 the following have disapproved the form of the order:
11 n/a

12 ☐ No opposition was filed to the motion and no other party or counsel appeared at the
13 hearing.

14 DATED this 12th day of February 2007.

15 BECKLEY SINGLETON, CHTD.

16 

17 ANNE M. LORADITCH, ESQ.
18 Nevada Bar No. 8164
19 530 Las Vegas Boulevard South
20 Las Vegas, Nevada 89101
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EXHIBIT A

Claim No.	Claimant	Claim Amount
1	Diana Forde, Trustee of the Michelle Revocable Trust	\$168,165.63
2	Diana Forde, Trustee of the Michelle Revocable Trust	\$168,165.63
3	Joseph Grgurich	\$24,023.66
4	Robert G. Worthen	\$1,578,096.69
5	Roseberry Family LP, Robert L. Roseberry	\$25,000.00
21	David & Sharon Mesker	\$83,036.03
22	Anthony & Nancy Prescia	\$144,141.97
23	Anthony & Nancy Prescia	\$233,782.12
24	Patterson-Rogers 2001 Family Trust	\$48,047.32
25	Simmtext, Inc.	\$240,236.61
26	Jed Barish	\$87,870.62
27	Ross Deller	\$50,000.00
28	Ross Deller	\$100,000.00
29	Ross Deller	\$120,000.00
30	Ross Deller	\$50,000.00
31	Joseph Grgurich	\$24,023.66
32	Diana Forde, Trustee of the Michelle Revocable Trust	\$168,165.63
33	Diana Forde, Trustee of the Michelle Revocable Trust	\$93,000.00
34	Lestor C. Avila	\$200,000.00
35	Rex B. McBride	\$50,000.00
36	Thomas A. Brodie, Jr.	\$24,023.66
39	Aristotle Melonas	\$21,728.50
40	Aristotle Melonas	\$551,616.50
41	Aristotle Melonas	\$72,070.98
42	Aristotle Melonas	\$654,852.55
43	Aristotle Melonas	\$145,496.04
44	Robert Carollo & Beverly Carollo	\$96,094.65
45	Suzanne C. Mowbray, Trustee	\$196,705.49
46	Walter C. Bell & Enriquita Bell	\$50,000.00
47	First Savings Bank C/F Janice Wise IRA	\$120,118.00
48	First Savings Bank C/F Kenneth N. Wise IRA	\$144,141.00
49	The Chiapetta Trust Pat & John Chiapetta Trustee	\$59,104.28
50	Silver Saver Mort., Inc.	\$36,386.45
51	E. Leslie Combs, Jrs. IRA #507	\$136,029.35
52	E. Leslie Combs, Jrs. Or Sherri Y. Allen	\$48,530.85
54	Said Mobin	\$24,220.26
55	James C. Connick & Velma M. Connick	\$144,141.97
57	Robert J. Scott & Lois Mae Scott	\$77,423.96
58	Carmine and Ann Vento	\$48,047.32
59	Ramona C. Bigelow	\$30,363.07
60	Alan Benet	\$26,577.40

1	61	Tamra A. Mamuad	\$480,473.24
2	62	Manfred S. Spindel & Christine L. Spindel	\$296,706.00
3	63	Said Mobin	\$24,220.26
4	64	Bill Wallace	\$57,530.57
5	65	Maila Snider	\$31,139.14
6	66	Maila Snider	\$96,094.65
7	67	Walter Hell & Sylvia Hell, Trustees	\$124,334.87
8	68	Janice J. Hergert Revocable Living Trust Dated 9/15/00	\$25,000.00
9	69	Janice J. Hergert Revocable Living Trust Dated 9/15/00	\$50,000.00
10	70	Bryan L. Fidler and Dawn E. Lucas	\$56,344.00
11	71	Alfred Olsen, Jr.	\$223,706.67
12	72	Joseph and Loretta Donnolo, Ttees, Donnolo Family Trust	\$48,047.00
13	73	John Mulkey	\$817.95
14	74	Arthur P. Laird & Eulalia Laird, Ttees, Laird Family Trust Dated 2/15/97	\$30,829.24
15	75	Kristen L. Beling & William J. Dougherty, Ttees, Sunset Endodontics PS Trust	\$55,644.80
16	76	William F. or Louise Scheve	\$36,669.07
17	77	Bruce and Sherry Layne	\$240,000.00
18	78	Mark Horton Treasurer Allen Bennett Trustee Shepherd of the Mountains Lutheran Church	\$24,708.00
19	84	KPT Irrevocable Trust Dated 7/16/99	\$202,866.38
20	85	Karen Petersen Tyndall Trust Dated 3/9/94 (Acct #4231)	\$1,115,915.59
21	86	William M. Spangler (Acct 6249)	\$48,047.32
22	87	William M. Spangler and Jean A. Spangler (Acct 8249)	\$72,070.98
23	88	Gary Michelsen	No amount stated
24	89	John E. Michelsen Family Trust	No amount stated
25	90	Margaret B. McGimsey Trust	\$96,094.75
26	91	Miriam B. Gage and George J. Gage	\$283,838.53
27	92	George J. Gage Trust Dated October 8, 1999	\$48,047.32
28	93	Sharon or Jerry McGimsey	\$311,091.58
	94	Johnny Clark	\$99,467.90
	95	Bruce McGimsey	\$86,171.22
	96	Castulo O. Martinez	\$24,573.59
	97	Helen N. Graeber	\$216,212.95
	98	Eric T. and Dolores V. Erickson	\$120,185.07
	99	Carol Ann Turner	\$98,054.36
	100	Terry L. Hansen Revocable Living Trust Dated 9/25/03	\$48,047.32
	101	John A. Godfrey, Pinnacle Entertainment Inc.	\$262,760.24
	102	Douglas Carson	\$1,119.58
	103	Robert A. Susskind	\$213,645.91
	104	Ralph W. Sherer Trust	\$193,176.95
	105	Cynthia Deitz aka Cynthia L. Schulte	\$264.01
	106	Debra S. Ballinger	\$29,632.19
	107	Gwen S. Patton Trust	\$129,027.13
	108	Andrew W. & Beth Mitchell	\$111,444.82

109	Jean Jacques Leblanc	\$66,050.02
110	Jean-Jacques Leblanc	\$768,757.17
111	George J. Gage Trust Dated October 8, 1999	\$48,047.32
112	Miriam B. Gage and George J. Gage	\$283,838.53
113	CFR, Inc.	\$53,917.15
114	David R. Fuller and Monica D. Fuller Trust	\$261,687.87
115	Cynthia Deitz (fka Schulte)	\$264.01
117	Michael Baginski	\$288,283
118	Karen Petersen Tyndall Trust Dated 3/9/94	\$1,115,915.59
119	KPT Irrevocable Trust Dated 7/16/99	\$202,866.38
120	Herman M. Adams/Brian M. Adams/Anthony G. Adams	\$3,625,000.00
121	Michael L. Gross and Diana M. Gross	\$96,094.65
122	Brian M. Adams	\$325,000.00
123	Olympia Capital Management	\$100,000.00
124	Larry L. & Patsy R. Rieger	\$194,337.91
127	John E. Michelsen Family Trust	No amount stated
128	Gary Michelsen	No amount stated
129	Margaret B. McGimsey Trust	\$96,094.75
130	Sharon or Jerry McGimsey	\$311,091.58
131	Johnny Clark	\$99,467.90
133	Olympia Capital Management	\$100,000.00
134	William M. Spangler	\$48,047.32
135	William M. Spangler and Jean A. Spangler	\$72,070.98
136	Bruce McGimsey	\$86,171.32
137	Jack M. Dunphy	\$26,071.08

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